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'Back to Square One': Supreme Court Tosses Cases Challenging Federal COVID Vaccine Mandates

The U.S. Supreme Court threw out three cases challenging the Biden administration's now-defunct COVID-19 vaccine mandate based on the argument that the cases are moot because the mandates were rescinded. The move prevents the lower court decisions from standing as precedent, and critics say it leaves the door open for future mandates.

By Brenda Baletti, Ph.D.

27

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The U.S. Supreme Court on Monday threw out three cases challenging the Biden administration's now-defunct COVID-19 vaccine mandate for executive branch employees and military service members.

The lower courts had reached conflicting decisions about the mandates in the three cases. However, before the Supreme Court heard them, the mandates were rescinded.

Rather than deciding the cases on their merits, the Supreme Court remanded the cases back to the lower courts with instructions to dismiss the cases as "moot." In this instance, "moot" refers to a case involving an issue (COVID-19 vaccine mandates) that did exist, but was resolved by some means other than the court ruling in favor of one side or the other.

Once a case is declared moot, the lower court's decision can no longer be used to set a precedent for future cases — which in this case opens the door for future vaccine mandates, Children's Health Defense (CHD) staff attorney Ray Flores told The Defender.

"Erasing a ruling erases case precedent," Flores said. "When the next mandates come, and they will, it's back to square one."

Marcus Thornton, president of Feds for Freedom, a plaintiff in one of the cases, said in a statement:

> "We believe the United States Constitution clearly does not permit the federal government to force federal workers — or any law-abiding citizen — to inject their bodies with something against their will. In fact, the freedom to control your own body and your own medical information is so basic that, without those liberties, it is impossible to truly be 'free' at all.
>
> "We are disappointed that the Supreme Court dodged these important constitutional arguments and instead chose to vacate our case on technicalities."

Sujata Gibson, a civil rights attorney representing plaintiffs in several New York cases challenging COVID-19 vaccine mandates, told The Defender:

> "In federal and state courts, the government strategy has largely been to try to moot problematic vaccine rulings, and vacate the lower court rulings, in what appears to be open gamesmanship. It is disappointing that the Supreme Court issued these rulings yesterday, as this will only encourage that tactic going forward."

Leslie Manookian, president and founder of the Health Freedom Defense Fund, which is also suing the Biden administration over the federal mandates, said the ruling marked a "dark day" for the country. She added:

> "One of SCOTUS' [Supreme Court of the United States] jobs is to reconcile conflicting rulings from the circuit courts. What they've done here is to cravenly abdicate their responsibilities — and pave the way for this to happen again.
>
> "The onus is now on the little guys to spend all the time and energy to raise the money to mount a new lawsuit to challenge a new order should one arise, when SCOTUS could have and should have adjudicated this issue and settled it once and for all."

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The three cases decided in Monday's ruling

Feds for Freedom — a nonprofit representing more than 8,500 federal workers — sued the Biden administration and several federal agencies in December 2021 after Biden introduced Executive Order 14043 in September 2021.

That order required more than 3.5 million federal executive branch workers to undergo COVID-19 vaccination unless they secured approved medical or religious exemptions.

The 5th Circuit U.S. Court of Appeals in March upheld a preliminary injunction in that case, issued in January 2022 by a federal judge. The 5th Circuit ruled that the federal courts — and not an administrative venue like the Merit Systems Protection Board (MSPB), as the administration alleged — had jurisdiction over the case

The court ruled the mandate should be suspended as the case proceeded through the courts.

In a second case challenging the federal employee mandate, Navy civilian employee Jason Payne alleged the vaccine mandate was unconstitutional and exceeded the administration's authority.

The U.S. Court of Appeals for the District of Columbia Circuit came to the opposite decision in that case, ruling in March that the MSPB and not the courts had jurisdiction over the case.

The Biden administration in May rescinded the vaccine mandate along with the COVID-19 public health emergency. The mandates had "saved millions of lives" it claimed in a press release, but "we are now in a different phase of our response when these measures are no longer necessary."

The administration argued that the cases are no longer relevant because it revoked the mandate.

In the third case, the 6th Circuit U.S. Court of Appeals in December 2022 unanimously ruled that the U.S. Air Force had wrongly denied the requests of over 10,000 unvaccinated Air Force members who requested a religious exemption. The court ordered the Air Force to stop all disciplinary action against them.

In that decision, the court held that the Air Force had a "uniform policy" of denying religious exemptions to anyone who wanted to remain in the service.

Defense Secretary Lloyd Austin on Aug. 24, 2021, had mandated members of the U.S. military get the COVID-19 vaccine.

However, in late 2022, in response to significant pushback against the mandate, Congress passed the 2023 National Defense Authorization Act, which required Austin to rescind the mandate. He did so on Jan. 10, 2023.

There are several class action cases pending aimed at granting relief to the thousands of unvaccinated active duty, reserve and Air National Guard, Air Force and Space Force members who submitted a religious exemption to the Pentagon's COVID-19 vaccine mandate and were denied or are awaiting a decision.

The U.S. military could owe billions in back pay and legal fees.

In all three cases in which the Supreme Court ruled on Monday, the administration urged the justices to set aside the lower court's decisions under the so-called Munsingwear doctrine, where a case becomes moot while it is pending review by a higher court.

Feds for Freedom and the Air Force members suing the administration disagreed.

Feds for Freedom argued that the lower court victory should stand as a "warning to the future" against government overreach during emergencies, the Wall Street Journal reported.

The administration was asking the Supreme Court to endorse their "heads we win, tails you get vacated" strategy in proposing an untenable use of Munsingwear, attorneys for the Air Force plaintiffs wrote in their brief to the court.

That would allow the administration to "litigate to the hilt in both district and circuit court and — only if they lose — then decline to seek substantive review from this Court and instead moot the case and ask this Court to erase the circuit court loss from the books," attorneys for Feds for Freedom concurred in their brief.

They can basically "send the whole thing down the memory hole like it never happened," said Trent McCotter, a partner at Boyden Gray representing Feds for Freedom.

"It should be noted that the so-called 'Munsingwear doctrine' cannot be applied if there are damages at stake. So, this decision should not impact any plaintiffs who are seeking to recover lost wages or recover for other concrete harms," Gibson noted.

Only liberal Associate Justice Ketanji Brown Jackson dissented from the court's decision to wipe away the lower court rulings. "In my view, the party seeking vacatur [to vacate the ruling] has not established equitable entitlement to that remedy," she wrote about both the Feds for Medical Freedom case and the case against the U.S. Air Force.

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'When the next mandate comes, it's back to square one'

The administration said in its filings that it revoked the order because the pandemic was waning, "not [in] any effort to evade judicial review or gain litigation advantage."

"The president 'could not reasonably be expected' to reinstate EO 14,043," the administration said because a large majority of federal employees were already vaccinated.

It wrote:

> "If the COVID-19 pandemic were to reenter an acute phase ... any policies adopted in response to those developments would be based on and responsive to those new circumstances.
>
> "Likewise, any future challenge to those hypothetical policies would have to take into account the circumstances justifying them. At this time, no reasonable prospect exists that the government will resume enforcing the same policy challenged here."

That means if the administration were to put a mandate in place, it would be a new mandate, not a re-invocation of the previous order.

Feds for Freedom plans to continue to pursue justice related to vaccine issues in the federal court system, it said in a statement.

"Earlier this year, Feds For Freedom filed new suits in federal court for violations of our members' rights under Title VII of the Civil Rights Act, the Religious Freedom Restoration Act, and the U.S. Constitution. We will be fighting for justice for those whom the vaccine has injured. Many in the government overstepped their legal bounds, and we are going to hold them accountable," it wrote.

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Brenda Baletti, Ph.D.

Brenda Baletti Ph.D. is a reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.

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Someone
5 days ago

A shame to see this happen because it isn't a moot issue just because the mandates were rescinded. There is most definitely a need to rule if the mandates were legal to have put into place to ensure that this doesn't happen again in the future when the next pandemic comes.

On top of that, there are still plenty of instances where vaccines are mandated. Many private employers are still mandating vaccines. Very few places have any protections for the citizens to ensure that they will not be forced to vaccinate or seek an exemption that their employer may decide isn't good enough. If we're liable for all damage done to us by a medical treatment, then it should never be forced upon us by parties unwilling to accept that liability.

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Nod → Someone
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It is not a shame, it is criminal corruption.

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GarySummers → Nod
5 days ago

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It is, and the quickest way to make sure it doesn't happen again is the require that any party who mandates a medical intervention take on full liability for any harms done by said intervention. For a bonus round: a fine or jail time for each person wrongfully denied an exemption and is then harmed.

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holisticpoet
5 days ago

I don't think the supreme court could make it any clearer that they are the champion of the new world order and not the people. It's really too bad that the majority of people give their personal power away to those who appear to have authority. A little secret is that no one really has any more authority than anyone else. Law enforcement may appear to have more authority, or a judge, or a politician. But when it comes right down to it, we all put our pants on one leg at a time and most of these people we see as having authority are only following orders from someone else that cares not for the people. As for me I follow the orders of he who is within me and not he who is in the world.

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Nod → holisticpoet
5 days ago

nailed it

The Great Reset cometh.

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GarySummers → holisticpoet
5 days ago

A Key Observation to the Sham, Congress, and the Supreme Court, Illegals, White House Staff,
Post Office (2000 Mules/Mail Trucks carrying Ballots), China(s), Chinese Nationals were ALL Exempt from the experimental 'mRNA Serum Biden Mandate Jabs?

2 0 Reply • Share ›

Jennifo → holisticpoet
4 days ago

Amen. This is a hill I will die on.

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Nod
5 days ago

Does anyone really think than any branch of government is not corrupted by the globalists.

As I have always said, the globalist only need to buy the top dog, the rest dont matter. They did the same thing in Canada.

Courts will do NOTHING to stop the tyranny coming.

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GarySummers → Nod
5 days ago

Many have been bought by the CIA, Globalist, WEF, UN Agenda#21, One World Government!
They have to get Rid of, Water it down, our US Constitution, look for more False Flags to restrict our Freedoms! Patriot Act, and Fisa Courts will be Enhanced, do not support any Politician that supports this!
https://sdgs.un.org/publica...

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LinUK
5 days ago

Did anyone really think that 'they' would have planned all this without getting control of the legal system?

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Bill Hough
5 days ago

Our judicial system is hopelessly compromised.

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GarySummers → Bill Hough
5 days ago edited

A Forensic Audit, of all the SCOTUS Bank Accounts, Off Shore, Cayman Islands, Switzerland, needs to be done. IMO.
Plus Final Presidential Candidates. IMO.
Any connections to the Globalist, WEF, UN, CIA, needs to be Vetted!

Our VP Harris is Owned by the UN Agenda #21 Crowd!
Why is not USA her first Priority?, same as her Failed Border Mission?. "Open Borders" Yes!
"VP Kamala Harris Pledges '$3 Billion in Taxpayer Funds' to Poor Countries Fighting Climate Crisis" https://www.msn.com/en-us/n...

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Dan → GarySummers
4 days ago

Good idea, but any attempt to do any good is viciously attacked by the media. The media cartel has to be disbanded and all working for it need to be brought to justice. It is nothing but a propaganda machine for the international "intelligence community" which includes almost every agency embedded in every country. The artificially elevated, honored, revered and secretive spy rings that have shaped this nightmare known as the modern world. Ever notice how the title, "intelligence community" quite simply has the exact definition of illuminati? "The illuminated ones." Those who know what nobody else does. Ya. The media is their tool.

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MDskeptic
5 days ago

..."cravenly abdicated their responsibilities", engaged in "open gamesmanship". Sounds like our Supremes are way off key. Ketanji for her part avoids confronting the main issue by pondering the definition of "Moot Vacation". This is reminiscent of her strenuous but failed effort to define the word "woman" at her confirmation hearing. When justice is indifferent to truth, plays with words and evades responsibility, then is it any wonder that we live in a lawless country?

5 1 Reply • Share ›

Colleen Martin → MDskeptic
5 days ago edited

The supreme Court in Canada has done the same thing. A current politician for the PPC and a retired former Provicial Premier, who is also the last surviving signatore of the Canadian Charter of Rights and Freedoms had a case for the travel restrictions and the Jab mandates and they ruled the same "MOOT" because they hve been recinded, FOR NOW.

5 0 Reply • Share ›

Dan → Colleen Martin
4 days ago

In lockstep. They've clearly read the same instructions. There are no independent countries, courts, or branches of government. The experiment is over. Nice try, founding fathers. Nice documents. Eloquent, truthful writings. Too bad those founders were all hypocrites. They preached equality while owning slaves. Fought against foreign tyrants who taxed without allowing representation, while in this land they were doing far worse to the original inhabitants. If only they could have joined the already formed union of the Six Sovereign Nations of the Iroquois, from whom Franklin got the idea for the united states and its constitution. If only they weren't greedy, selfish, lazy slave masters... The common people of the day were so much better than the elite, hypocrite bureaucrats now remembered as the founding fathers. This is why today's NWO indoctrinated younger generations have so much fuel and phony justification to burn up the truly great documents the founders authored. It's hard to argue against or vilify the Constitution. But it's easy to smash the statues of those who authored it, and burn the documents they authored.

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Hannibal42
5 days ago edited

I am not a US citizen but shouldn't a decision of justice apply on a matter that was ongoing when the litigation was made logically ?

2 0 Reply • Share ›

Dan
4 days ago

These judges are complicit in mass murder. In a more ideal society they would be tried and convicted, and would never again be free to cause harm to innocent people. But in a civil society it would never come to that, because such corrupt, cowardly, self serving tyrants would never have been allowed such positions, and those who would serve, would never be granted the grotesque privileges so highly sought after in our barbaric, medieval system.

The only solution seems more and more to be total destruction. And it looks like this is what is happening. Sadly, it seems now that there is no other way. Though I still hope and try for better solutions, I accept the probability we must Dig in and prepare for a fight to the death as they burn the world to ruins...

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Jennifo
4 days ago

Did anyone really think they aren't going to try mandates/lockdowns again next year??? Got a bridge I want to sell you. Stock up now.

1 0 Reply • Share ›

CAWS
3 hours ago

Well since SCOTUS refuses to address the freedom of speech issue in Missouri v Biden and this issue ,you can bet that when the next mandate comes down they will also allow the banks to freeze your accounts if you refuse just like they did in Canada. Also if they rule that the president cannot be convicted of any crime while in office; then you can bet there will not be another election going forward.

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Mark
4 hours ago

Geez...what does it take to prevent governments in a democratic society to prevent a ruling party from ruling by decree? There is no way stomping on civil liberties like this (i.e. mandating ineffective and untested drugs on the general public with little to no safety evaluation)... should ever be permitted again.

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Thomas Collins
4 hours ago

So it seems that SCOTUS would have us believe that a murder trial is also moot, since the victim is no longer able to be harmed by the murderer. It looks like several SCOTUS justices are either educated beyond their intelligence or in the same mental state as Biden, Harris and Fetterman.
Will their next decision assert that those who illegally infiltrated into our nation cannot be deported or prosecuted, since Biden has assured us that the border is now secure?
Sadly, corrupt judges are not confined to Biblical times.

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r2bzjudge
3 days ago

"Erasing a ruling erases case precedent," Flores said. "When the next mandates come, and they will, it's back to square one."

That is the deliberate intent of the Supreme Court. The Supreme Court supports government mandates. As i recall, the Supreme Court upheld the Covid shot mandate for health workers. Most health care workers probably already had natural immunity by then and had no need of a Covid shot.

People are going to have to refuse mandates en mass in order to get the government to back down. The last time Barbara Ferrar threatened a mask mandate in L.A. County, the Sheriffs Department said they would not enforce it.

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NikkiB
3 days ago edited

It is unfortunate when legal precedent is used as the basis for interpretation of what should be our right to refuse or to accept a medical treatment or intervention. The same fervor with which abortion advocates try to suggest that abortion access is healthcare are persistently the ones demanding that people should be forced to vaccinate. We should all agree that we ourselves should have the right to choose what is right for us to do in our lives because forcing any person to do or not do anything inevitably will show itself to be a form of tyranny.

This fact is right now being used to suggest that in Texas, the new laws put in place to limit or entirely to end abortion will reveal that not allowing this procedure is a form of medical tyranny. The legal precedent has been used in many cases to prove that our government has the power or the right to force a person to accept a vaccination for the greater good, but the problem is always that this supposed power to force things upon people for the good of the many can be used for a list of nefarious purposes as it turns out, the language is always put in that would allow for some type of tyranny or to beget corruption and malfeasance.

As far as the acceptance of every state to allow abortions led to a number of nationwide policies to treat this practice as nothing more than contraception which led to many

see more

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notaluvvie
4 days ago

Good on the SC doing as they are paid to do by their political and industrial masters.

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Gary Brown
4 days ago

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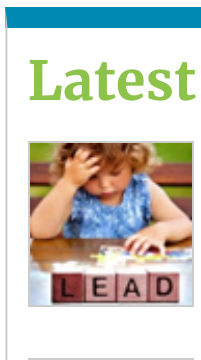

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